

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 97**

**[FRL-9947-02-OAR]**

**Availability of Data on Allocations of Cross-State Air Pollution  
Rule Allowances from New Unit Set-Asides for the 2016 Compliance  
Year**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** **Proposed rule;** notice of data availability (NODA).

**SUMMARY:** The Environmental Protection Agency (EPA) is providing notice of the availability of preliminary calculations of emission allowance allocations to certain units under the Cross-State Air Pollution Rule (CSAPR). Under the CSAPR federal implementation plans (FIPs), portions of each covered state's annual emissions budgets for each of the four CSAPR emissions trading programs are reserved for allocation to electricity generating units that commenced commercial operation on or after January 1, 2010 (new units) and certain other units not otherwise obtaining allowance allocations under the FIPs. The quantities of allowances allocated to eligible units from each new unit set-aside (NUSA) under the FIPs are calculated in an annual one- or two-round allocation process. EPA has completed

preliminary calculations for the first round of NUSA allowance allocations for the 2016 compliance year and has posted spreadsheets containing the calculations on EPA's website. EPA will consider timely objections to the preliminary calculations (including objections concerning the identification of units eligible for allocations) and will promulgate a notice responding to any such objections no later than August 1, 2016, the deadline for recording the first-round allocations in sources' Allowance Management System accounts. This notice may concern CSAPR-affected units in the following states: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

**DATES:** Objections to the information referenced in this notice must be received on or before [insert date 30 days after the publication date in the Federal Register].

**ADDRESSES:** Submit your objections via email to CSAPR\_NUSA@epa.gov. Include "2016 NUSA allocations" in the email subject line and include your name, title, affiliation, address, phone number, and email address in the body of the email.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning this action should be addressed to Robert Miller at (202) 343-9077 or miller.robert1@epa.gov or Kenon Smith at (202) 343-9164 or smith.kenon@epa.gov.

**SUPPLEMENTARY INFORMATION:** Under the CSAPR FIPs, the mechanisms by which initial allocations of emission allowances are determined differ for “existing” and “new” units. For “existing” units - that is, units commencing commercial operation before January 1, 2010 - the specific amounts of CSAPR FIP allowance allocations for all compliance years have been established through rulemaking. EPA has announced the availability of spreadsheets showing the CSAPR FIP allowance allocations to existing units in previous notices.<sup>1</sup>

“New” units - that is, units commencing commercial operation on or after January 1, 2010 - as well as certain older units that would not otherwise obtain FIP allowance allocations do not have pre-established allowance allocations. Instead, the CSAPR FIPs reserve a portion of each state’s total annual emissions budget for each CSAPR emissions trading program as a

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<sup>1</sup> The latest spreadsheet of CSAPR FIP allowance allocations to existing units, updated in 2014 to reflect changes to CSAPR’s implementation schedule but with allocation amounts unchanged since June 2012, is available at <http://www3.epa.gov/crossstaterule/actions.html>. See Availability of Data on Allocations of Cross-State Air Pollution Rule Allowances to Existing Electricity Generating Units, 79 FR 71674 (December 3, 2014).

new unit set-aside (NUSA)<sup>2</sup> and establish an annual process for allocating NUSA allowances to eligible units. States with Indian country within their borders have separate Indian country NUSAs. The annual process for allocating allowances from the NUSAs and Indian country NUSAs to eligible units is set forth in the CSAPR regulations at 40 CFR 97.411(b) and 97.412 (NO<sub>x</sub> Annual Trading Program), 97.511(b) and 97.512 (NO<sub>x</sub> Ozone Season Trading Program), 97.611(b) and 97.612 (SO<sub>2</sub> Group 1 Trading Program), and 97.711(b) and 97.712 (SO<sub>2</sub> Group 2 Trading Program). Each NUSA allowance allocation process involves up to two rounds of allocations to new units followed by the allocation to existing units of any allowances not allocated to new units. EPA provides public notice at certain points in the process. This notice concerns preliminary calculations for the first round of NUSA allowance allocations for the 2016 compliance year.<sup>3</sup>

The units eligible to receive first-round NUSA allocations are defined in §§ 97.412(a)(1), 97.512(a)(1), 97.612(a)(1), and 97.712(a)(1). Generally, eligible units include any CSAPR-affected unit that has not been allocated allowances as an

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<sup>2</sup> The NUSA amounts range from two percent to eight percent of the respective state budgets. The variation in percentages reflects differences among states in the quantities of emission allowances projected to be required by known new units at the time the budgets were set or amended.

<sup>3</sup> At this time, EPA is not aware of any unit eligible for a first-round allocation from any Indian country NUSA.

existing unit as well as certain units that have been allocated allowances as existing units but whose allocations have been deducted or not recorded because of corrections or multi-year breaks in operations. EPA notes that a valid allowance allocation may consist of zero allowances; thus, an existing unit specifically allocated zero allowances in the spreadsheet of CSAPR FIP allowance allocations to existing units is generally ineligible to receive a NUSA allowance allocation.

The quantity of allowances to be allocated through the 2016 NUSA allowance allocation process for each state and emissions trading program is generally the state's 2016 emissions budget less the sum of (1) the total of the 2016 CSAPR FIP allowance allocations to existing units and (2) the amount of the 2016 Indian country NUSA, if any.<sup>4</sup> The amounts of NUSA allowances may be increased in certain circumstances as set forth in §§ 97.412(a)(2), 97.512(a)(2), 97.612(a)(2), and 97.712(a)(2).

The amounts of first-round allocations to eligible units from each NUSA are calculated according to the procedures set forth in §§ 97.412(a)(3)-(7) and (12), 97.512(a)(3)-(7) and (12), 97.612(a)(3)-(7) and (12), and 97.712(a)(3)-(7) and (12).

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<sup>4</sup> The quantities of allowances to be allocated through the NUSA allowance allocation process may differ slightly from the NUSA amounts set forth in §§ 97.410(a), 97.510(a), 97.610(a), and 97.710(a) because of rounding in the spreadsheet of CSAPR FIP allowance allocations to existing units.

Generally, the procedures call for each eligible unit to receive a first-round 2016 NUSA allocation equal to its 2015 emissions as reported under 40 CFR part 75 unless the total of such allocations to all eligible units would exceed the amount of allowances in the NUSA, in which case the allocations are reduced on a pro-rata basis.<sup>5</sup>

EPA notes that an allocation or lack of allocation of allowances to a given EGU does not constitute a determination that CSAPR does or does not apply to the EGU. EPA also notes that allocations are subject to potential correction.

The detailed unit-by-unit data and preliminary allowance allocation calculations are set forth in Excel spreadsheets titled "CSAPR\_NUSA\_2016\_NOx\_Annual\_1st\_Round\_Prelim\_Data", "CSAPR\_NUSA\_2016\_NOx\_OS\_1st\_Round\_Prelim\_Data", and

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<sup>5</sup> Subsequent allocations of any allowances remaining in any 2016 NUSA after first-round allocations will be addressed in future notices. Any such allocations will be made according to the procedures set forth in §§ 97.412(a)(9), (10) and (12), 97.512(a)(9), (10) and (12), 97.612(a)(9), (10) and (12), and 97.712(a)(9), (10) and (12). Generally, new units that commenced commercial operations in 2015 or 2016 will receive second-round 2016 NUSA allocations sufficient to bring the totals of their first- and second-round allocations up to their 2016 emissions as reported under 40 CFR part 75 unless the total of such second-round allocations for all eligible units would exceed the remaining amount of allowances in the NUSA, in which case the second-round allocations will be reduced on a pro-rata basis. Any allowances remaining in any NUSA after second-round allocations to new units - along with any allowances remaining in any corresponding Indian country NUSA - will be allocated to the state's existing units in proportion to their respective 2016 CSAPR FIP allocations of non-NUSA allowances.

"CSAPR\_NUSA\_2016\_SO2\_1st\_Round\_Prelim\_Data," available on EPA's website at <http://www3.epa.gov/crossstaterule/actions.html>. The three spreadsheets show EPA's initial determinations of 2016 NUSA allocations for new units subject to the CSAPR NO<sub>x</sub> Annual, NO<sub>x</sub> Ozone Season, and SO<sub>2</sub> (Group 1 and Group 2) trading programs, respectively. Each of the spreadsheets contains a separate worksheet for each state covered by that program showing, for each unit identified as eligible for a first-round NUSA allocation, (1) the unit's emissions in the 2015 control period (annual or ozone season as applicable), (2) the maximum first-round 2016 NUSA allowance allocation for which the unit is eligible (typically the unit's emissions in the 2015 control period), (3) various adjustments to the unit's maximum allocation, many of which are necessary only if the NUSA pool is oversubscribed, and (4) the preliminary calculation of the unit's first-round 2016 NUSA allowance allocation.

Each state worksheet also contains a summary showing (1) the quantity of allowances initially available in that state's 2016 NUSA, (2) the sum of the first-round 2016 NUSA allowance allocations that will be made to new units in that state, assuming there are no corrections to the data, and (3) the quantity of allowances that would remain in the 2016 NUSA for use in second-round allocations to new units (or ultimately for

allocation to existing units), again assuming there are no corrections to the data.

Objections should be strictly limited to the data and calculations upon which the NUSA allowance allocations are based and should be emailed to the address identified in **ADDRESSES**.

Objections must include: (1) precise identification of the specific data and/or calculations the commenter believes are inaccurate, (2) new proposed data and/or calculations upon which the commenter believes EPA should rely instead to determine allowance allocations, and (3) the reasons why EPA should rely on the commenter's proposed data and/or calculations and not the data referenced in this notice.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), and 97.711(b).)

Dated: May 19, 2016.

Reid P. Harvey  
Director, Clean Air Markets Division  
Office of Atmospheric Programs  
Office of Air and Radiation

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